

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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*IN RE* TERRORIST ATTACKS ON SEPTEMBER 11, 2001 :

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: **AFFIDAVIT OF TIMOTHY B.  
: FLEMING, ESQ. IN SUPPORT  
: OF APPLICATION FOR  
: CERTIFICATE OF DEFAULT**

:  
: **1:03 MDL 1570 (GBD)(SN)**  
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**This Document Relates to  
Ray, et al. v. Iran, et al.  
1:19-cv-00012 (GBD)(SN)**

I, TIMOTHY B. FLEMING, ESQ., counsel for the *Ray* Plaintiffs, hereby submit this Affidavit in Support of Application for Certificate of Default and state the following:

1. The Defendants upon which the *Ray* Plaintiffs seek a default judgment are the following:

(1) Islamic Republic of Iran; (2) Iran's Ministry of Information and Security; (3) Islamic Revolutionary Guard Corps; (4) Iran's Ministry of Petroleum; (5) Iran's Ministry of Economic Affairs and Finance; (6) Iran's Ministry of Commerce; (7) Iran's Ministry of Defense and Armed Forces Logistics; and, (8) Central Bank of the Islamic Republic of Iran.

2. None of the aforementioned Defendants are an infant, are serving in the United States Armed Forces, or are otherwise incompetent or unavailable.

3. The Second Amended Complaint, Notice of Suit, Amended Summons, and Affidavit/Certifications from the translators were properly served on all of the aforementioned Defendants in accordance with the provisions of the FSIA, by the Clerk of this Court, and through the United States Department of State, via the Foreign Interests Section of the Embassy

of the Swiss Confederation in Tehran, Iran. Specifically, service of the Second Amended Complaint, Notice of Suit, Amended Summons, and Affidavit/Certifications from the translators was sent to Defendants c/o the Minister of Foreign Affairs of Iran by a mailing requiring a signature, pursuant to 28 U.S.C. §1608(a)(3), under cover letter of the Clerk of Court for the United States District Court for the Southern District of New York dated August 27, 2019; those packages were returned to the undersigned Affiant, counsel for the Plaintiffs, as rejected by the addressee, although they were opened, apparently, by the addressee or his agent(s).

Subsequently, on or about July 10, 2019, the Clerk of this Court dispatched to the United States Department of State the same documents to be served via diplomatic process pursuant to 28 U.S.C. §1608(a)(4). The State Department, via the Foreign Interests Section of the Embassy of the Swiss Confederation in Tehran, Iran, attempted diplomatic service of the documents on December 4, 2019, and such service was refused that same day. The State Department sent to the Clerk of this Court a letter, dated December 26, 2019, so stating, together with the diplomatic notes demonstrating that such diplomatic service was attempted in accordance with the FSIA and rejected by the Defendants. The Clerk of this Court posted notice of same on the docket on January 7, 2020. Sixty-one (61) days have elapsed since the attempted diplomatic service of the Second Amended Complaint, Notice of Suit, Amended Summons, and Affidavit/Certifications from the translators was rejected by Defendants.

4. All of the aforementioned Defendants have failed to enter an appearance in this Court, and each has failed to file any responsive pleading to the Second Amended Complaint that was filed by the *Ray* Plaintiffs, or any other pleading filed by the *Ray* Plaintiffs, as required by §1608(d) of the Foreign Sovereign Immunities Act (“FSIA”), which governs this cause of

action. See 28 U.S.C. §1608(d). The aforementioned Defendants were afforded sixty (60) days to file responses to the Second Amended Complaint but have not do so in that time.

5. Therefore, the Affiant respectfully requests that a Certificate of Default be issued by the Clerk of Court as to all of the aforementioned Defendants, specifically: (1) Islamic Republic of Iran; (2) Iran's Ministry of Information and Security; (3) Islamic Revolutionary Guard Corps; (4) Iran's Ministry of Petroleum; (5) Iran's Ministry of Economic Affairs and Finance; (6) Iran's Ministry of Commerce; (7) Iran's Ministry of Defense and Armed Forces Logistics; and, (8) Central Bank of the Islamic Republic of Iran.

**FURTHER THE AFFIANT SAYETH NOT.**

This Affidavit is comprised of 5 separately numbered paragraphs.

I, **TIMOTHY B. FLEMING**, being duly sworn, do hereby swear and affirm under penalty of perjury that the contents of this Affidavit are true and correct to the best of my knowledge, information, and belief.

  
TIMOTHY B. FLEMING

Sworn to before me this 4<sup>th</sup> day of February 2020, in Washington, District of Columbia.

District of Columbia

Signed and sworn to before me on

February 04, 2020

by Timothy B. Fleming

Notary Public

My commission expires 04/30/2024

